



Ninety-Eighth Legislature - Second Session - 2004
Introducer's Statement of Intent
LB 864

Chairperson: Mark Quandahl
Committee: Banking, Commerce and Insurance
Date of Hearing: January 20, 2004

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 864 would amend provisions of the Nebraska Uniform Trust Code (Neb.Rev.Stat. § 30-3867(e)) relating to a trustee's duty to administer a trust solely in the interests of the beneficiaries.

The provisions of Neb.Rev.Stat. § 30-3867(c)(4) currently provide that transactions involving the investment or management of trust property are presumed to be affected by a conflict between personal and fiduciary interests if entered into by a trustee with a corporation or other person or enterprise in which the trustee, or a person who owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.

An exception to this presumption is provided under Neb.Rev.Stat. § 30-3867(e) which expressly provides that an investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the "prudent investor rule" (Neb.Rev.Stat. §§ 30-3883 to 30-3889). The trustee is further required to at least annually notify the persons entitled to receive a copy of the trustee's annual report of the rate and method by which the trustee's compensation was determined.

LB 864 would expand the provisions of Neb.Rev.Stat. § 30-3867(e) to provide that (a) an investment by a trustee in an insurance contract purchased from an insurance agency owned, or affiliated with, the trustee, or any of its affiliates; or (b) the placing of securities transactions by a trustee through a securities broker that is part of the same company as the trustee, is owned by the trustee, or is affiliated with the trustee are **not** presumed to be affected by a conflict between the personal and fiduciary interests of a trustee if the transaction and any investment made pursuant to the transaction complies with the “prudent investor rule” and provided, in the case of investments in insurance contracts, that the trustee at least annually discloses to designated beneficiaries the rate and method upon which the trustee’s compensation was determined and, in the case of the placing of securities transactions, that such transactions are conducted on terms and under conditions comparable to those generally available through non-affiliated entities.

LB 864 will allow trust beneficiaries to benefit from transactions conducted between a trustee and a company affiliated with the trustee which provide an economic benefit to the trust and its beneficiaries. Trust beneficiaries will continue to be protected by the existing requirements under Neb.Rev.Stat. § 30-3867(e) that such transactions and any investment made pursuant thereto comply with the “prudent investor rule.”

Principal Introducer:

Senator Mick Mines